

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

HUNTINGTON DIVISION

REBECCA KLUG,

Plaintiff,

v.

Civil Action No.: 3:18-CV-00711

Judge Robert C. Chambers

**MARSHALL UNIVERSITY
BOARD OF GOVERNORS,
and FARID B. MOZAFFARI, an individual,**

Defendants.

**DEFENDANT MARSHALL UNIVERSITY BOARD OF GOVERNORS'
SECOND SUPPLEMNATAL RESPONSES TO PLAINTIFF'S FIRST SET OF
INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS**

Defendant, Marshall University Board of Governors ("Marshall University"), by counsel, Perry W. Oxley, David E. Rich, Eric D. Salyers, and the law firm of Oxley Rich Sammons, hereby submit the following Defendant Marshall University Board of Governors' Second Supplemental Responses to Plaintiffs' First Set of Interrogatories and Request for Production of Documents, pursuant to the Federal Rules of Civil Procedure.

RESPONSES TO INTERROGATORIES

7. Please identify, by name, address, telephone number, and gender, all individuals who have been demoted or terminated from the residency program at Marshall University School of Medicine from January 1, 2013 to the present. For each such individual, please also provide the reason each such individual was demoted or terminated from the residency program.

ORIGINAL ANSWER: Objection. The Defendant objects on the basis that disclosure of the

information sought by this Interrogatory violates the Family Educational Rights and Privacy Act of 1974. Without releases or authorizations from any and all individuals that may be revealed in information requested by this Interrogatory, the Defendant is not permitted to provide said information. The Defendant further objects to this Interrogatory because it seeks information beyond the scope of permissible discovery and is not reasonably calculated to lead to the discovery of admissible evidence. The Defendant further objects to this Interrogatory because it is overly broad and unduly burdensome.

SUPPLEMENTAL ANSWER: Pursuant to this Court's Order [ECF 47], below is a table with an anonymous list of the individuals in the surgery residency program from January 1, 2013 to December 31, 2016, along with whether or not the resident was demoted and/or terminated and the reason for demotion/termination. This list does not include the Plaintiff.

Resident Number	Gender	DEMOTED/TERMINATED	REASON
1	Male	NO	N/A
2	Male	NO	N/A
3	Female	NO	N/A
4	Female	NO	N/A
5	Male	NO	N/A
6	Male	NO	N/A
7	Male	NO	N/A
8	Female	NO	N/A
9	Male	NO	N/A
10	Male	NO	N/A

11	Female	NO	N/A
12	Male	NO	N/A
13	Male	NO	N/A
14	Male	NO	N/A
15	Male	NO	N/A
16	Male	NO	N/A
17	Male	NO	N/A
18	Male	NO	N/A
19	Male	NO	N/A
20	Male	NO	N/A
21	Female	NO	N/A
22	Male	NO	N/A
23	Male	NO	N/A
24	Male	NO	N/A
25	Female	NO	N/A
26	Male	NO	N/A
27	Male	NO	N/A
28	Male	NO	N/A
29	Male	NO	N/A
30	Female	NO	N/A
31	Male	NO	N/A

32	Male	CONTRACT NOT RENEWED	Failed to meet Criteria for Promotion
33	Female	NO	N/A
34	Male	NO	N/A
35	Male	NO	N/A
36	Female	NO	N/A
37	Male	NO	N/A
38	Male	NO	N/A
39	Male	NO	N/A
40	Male	NO	N/A
41	Male	NO	N/A
42	Female	NO	N/A

8. Please provide a list of all persons in the surgical residency program for Defendant from 2013 to present. For each person, please provide the person's gender and all ABS In-Training (ABSITE) scores.

ORIGINAL ANSWER: Objection. The Defendant objects on the basis that disclosure of the information sought by this Interrogatory violates the Family Educational Rights and Privacy Act of 1974. Without releases or authorizations from any and all individuals that may be revealed in information requested by this Interrogatory, the Defendant is not permitted to provide said information. The Defendant further objects to this Interrogatory because it seeks information beyond the scope of permissible discovery and is not reasonably calculated to lead to the discovery of admissible evidence. The Defendant further objects to this Interrogatory because it is overly

broad and unduly burdensome.

SUPPLEMENTAL ANSWER: Pursuant to this Court's Order [ECF 47], below is a table with an anonymous list of the individuals in the surgery residency program for the time period requested, along with their ABSITE scores. This list does not include the Plaintiff. Also, the residents took a different level ABSITE exam depending on their PGY level.

Resident Number	2013 ABSITE Score	2014 ABSITE Score	2015 ABSITE Score	2016 ABSITE Score
1	Standard Score=516; Percentile=49; Percentage Correct=76%	Standard Score=554; Percentile=34; Percentage Correct=74%	N/A	N/A
2	Standard Score=543; Percentile=47; Percentage Correct=77%	Standard Score=495; Percentile=25; Percentage Correct=69%	Standard Score=547; Percentile=32; Percentage Correct=74%	Standard Score=516; Percentile=13; Percentage Correct=72%
3	N/A	N/A	N/A	N/A
4	N/A	N/A	N/A	N/A
5	N/A	Standard Score=254; Percentile=7; Percentage Correct=49%	Standard Score=497; Percentile=50; Percentage Correct=70%	Standard Score=543; Percentile=47; Percentage Correct=77%
6	Standard Score=427; Percentile=29; Percentage Correct=66%	Standard Score=347; Percentile=4; Percentage Correct=57%	Standard Score=512; Percentile=26; Percentage Correct=71%	Standard Score=541; Percentile=27; Percentage Correct=74%
7	N/A	N/A	N/A	Standard Score=421; Percentile=56; Percentage Correct=64%
8	Standard Score=397; Percentile=20;	Standard Score=416; Percentile=14;	Standard Score=492; Percentile=14;	Standard Score=541; Percentile=27;

	Percentage Correct=63%	Percentage Correct=63%	Percentage Correct=69%	Percentage Correct=74%
9	N/A	Standard Score=490; Percentile=15; Percentage Correct=69%	Standard Score=437; Percentile=1; Percentage Correct=65%	N/A
10	N/A	N/A	N/A	Standard Score=275; Percentile=9; Percentage Correct=51%
11	N/A	N/A	N/A	Standard Score=265; Percentile=7; Percentage Correct=50%
12	Standard Score=458; Percentile=40; Percentage Correct=69%	N/A	N/A	N/A
13	N/A	N/A	N/A	Standard Score=645; Percentile=24; Percentage Correct=57%
14	N/A	N/A	N/A	N/A
15	Standard Score=268; Percentile=3; Percentage Correct=61%	Standard Score=332; Percentile=0; Percentage Correct=55%	Standard Score=432; Percentile=1; Percentage Correct=64%	Standard Score=446; Percentile=1; Percentage Correct=66%
16	N/A	Standard Score=421; Percentile=57; Percentage Correct=63%	Standard Score=497; Percentile=50; Percentage Correct=75%	Standard Score=581; Percentile=71; Percentage Correct=78%
17	N/A	N/A	Standard Score=413; Percentile=51; Percentage Correct=63%	Standard Score=531; Percentile=89; Percentage Correct=73%

18	N/A	Standard Score=436; Percentile=18; Percentage Correct=64%	Standard Score=487; Percentile=14; Percentage Correct=69%	Standard Score=511; Percentile=15; Percentage Correct=72%
19	N/A	Standard Score=219; Percentile=3; Percentage Correct=46%	N/A	N/A
20	Standard Score=557; Percentile=56; Percentage Correct=78%	N/A	N/A	N/A
21	Standard Score=372; Percentile=4; Percentage Correct=61%	Standard Score=406; Percentile=3; Percentage Correct=62%	Standard Score=502; Percentile=11; Percentage Correct=70%	Standard Score=531; Percentile=18; Percentage Correct=73%
22	Standard Score=458; Percentile=17; Percentage Correct=72%	N/A	N/A	N/A
23	N/A	N/A	Standard Score=213; Percentile=3; Percentage Correct=46%	N/A
24	N/A	Standard Score=465; Percentile=16; Percentage Correct=67%	Standard Score=557; Percentile=41; Percentage Correct=75%	Standard Score=586; Percentile=55; Percentage Correct=78%
25	N/A	N/A	N/A	Standard Score=446; Percentile=65; Percentage Correct=66%
26	N/A	N/A	N/A	Standard Score=536; Percentile=93; Percentage Correct=74%

27	Standard Score=377; Percentile=17; Percentage Correct=62%	N/A	N/A	N/A
28	N/A	N/A	N/A	N/A
29	N/A	N/A	N/A	N/A
30	Standard Score=277; Percentile=7; Percentage Correct=52%	N/A	N/A	N/A
31	N/A	N/A	Standard Score=398; Percentile=45; Percentage Correct=62%	Standard Score=416; Percentile=12; Percentage Correct=63%
32	N/A	N/A	N/A	N/A
33	N/A	Standard Score=249; Percentile=6; Percentage Correct=48%	Standard Score=432; Percentile=17; Percentage Correct=64%	Standard Score=481; Percentile=13; Percentage Correct=69%
34	N/A	N/A	Standard Score=592; Percentile=98; Percentage Correct=78%	Standard Score=601; Percentile=92; Percentage Correct=80%
35	N/A	N/A	Standard Score=482; Percentile=79; Percentage Correct=69%	Standard Score=471; Percentile=33; Percentage Correct=68%
36	Standard Score=458; Percentile=22; Percentage Correct=72%	Standard Score=510; Percentile=12; Percentage Correct=70%	Standard Score=482; Percentile=79; Percentage Correct=69%	Standard Score=471; Percentile=33; Percentage Correct=68%
37	N/A	N/A	Standard Score=532; Percentile=92;	Standard Score=536; Percentile=43;

			Percentage Correct=73%	Percentage Correct=74%
38	N/A	N/A	Standard Score=313; Percentile=16; Percentage Correct=55%	N/A
39	N/A	N/A	N/A	N/A
40	Standard Score=252; Percentile=1; Percentage Correct=60%	Standard Score=431; Percentile=2; Percentage Correct=64%	N/A	N/A
41	Standard Score=632; Percentile=94; Percentage Correct=83%	Standard Score=647; Percentile=93; Percentage Correct=82%	Standard Score=592; Percentile=59; Percentage Correct=78%	N/A
42	N/A	Standard Score=205; Percentile=2; Percentage Correct=45%	N/A	N/A

REQUEST FOR PRODUCTION OF DOCUMENTS AND THINGS

8. Please produce the complete contents of Defendant Farid Mozaffari's personnel file and all similar files. By the phrase "personnel file and all similar files," Plaintiff means all documents kept by BOG that refer to Defendant Mozaffari, including but not limited to all personnel records, discipline records, and all other documents kept by BOG that are used, have been used, or could have been used relative to Defendant Mozaffari's qualifications for employment, promotion, transfer, additional compensation, increase or decrease in grade level, disciplinary action, training, qualifications, applications, performance reviews, as well as any and all internal and confidential documents referring in any manner to Defendant Mozaffari.

ORIGINAL RESPONSE: Objection. The Defendant objects to this Request because it seeks

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**MARSHALL UNIVERSITY
BOARD OF GOVERNORS,
and FARID B. MOZAFFARI, an individual,**

Defendants.

CERTIFICATE OF SERVICE

The undersigned counsel for Defendant, Marshall University Board of Governors, served the foregoing *“Defendant Marshall University Board of Governors’ Second Supplemental Responses to Plaintiff’s First Set of Interrogatories and Request for Production of Documents”* by electronically filing a true copy of the same with the Clerk of the Court using the CM/ECF system on this 17th day of September, 2019.

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Counsel for Plaintiff, Rebecca Klug

s/Eric D. Salyers
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